



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

December 6, 1996

Mr. Craig D. Pederson
Executive Administrator
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

Letter Opinion No. 96-132

Re: Whether the Texas Water Development Board may purchase a savings bond as an employee service award pursuant to the 1995 General Appropriations Act, article IX, section 11, if the bond has a maturity value of more than \$50 (ID# 38954)

Dear Mr. Pedersen:

As you know, a rider in the current General Appropriations Act allows agencies to use state funds to purchase service and safety awards for employees. You ask whether the rider allows the Texas Water Development Board to purchase savings bonds for employee awards. You also ask whether purchase of a savings bond would violate the rider's cap of fifty dollars per employee if the bond will have a value upon maturity greater than fifty dollars. We conclude that a savings bond with a purchase price of fifty dollars or less is a permissible employee service award under the current General Appropriations Act.

The provision authorizing employee awards is found in article IX, section 11, of the 1995 Appropriations Act. It provides:

As compensation in addition to that otherwise provided by this Act, departments and agencies appropriated funds by this Act¹ are authorized to purchase and present to their respective employees or officers at periodic intervals under such rules and regulations as have been or may be adopted by the respective agencies named hereinabove, service awards, safety awards and other similar awards for professional achievement or other outstanding service. A state agency may purchase awards not to exceed fifty dollars (\$50) per employee.

General Appropriations Act of 1995, 74th Leg., R.S., ch. 1063, art. IX, § 11, 1995 Tex. Gen. Laws 5242, 6071 (footnote added).

¹The Texas Water Development Board was appropriated funds under the 1995 General Appropriations Act.

Every general appropriations act since 1971 has authorized employee service and safety awards for all departments and agencies receiving funds under the act. From 1959 to 1971, the authorization was granted in the appropriations provisions only for certain agencies, such as the State Highway Department, the Department of Public Safety, and the Parks and Wildlife Department. *See* General Appropriations Act of 1959, 56th Leg., 3d C.S., ch. 23, 1959 Tex. Gen. Laws 442, 590; *see also* General Appropriations Act of 1969, 61st Leg., 2d C.S., ch. 50, art. III, 1969 Tex. Gen. Laws 623, 823, 841. In 1960 this office held that a rider in the 1959 General Appropriations Act allowing the State Highway Department to purchase employee awards did not violate provisions of the Texas Constitution prohibiting certain expenditures of state funds. Attorney General Opinion WW-790 (1960); *see also* Attorney General Opinion JM-459 (1986) at 3 (finding State Employee Incentive Program constitutional). As a preliminary matter, we believe that the current rider, essentially unchanged since 1959, is constitutionally permissible on the same grounds.

We assume that you intend to purchase United States savings bonds issued by the Secretary of the Treasury pursuant to 31 U.S.C. § 3105. Generally, a bond represents a promise by the issuer to pay a certain sum of money upon a certain date in the future, when the bond is said to have reached its "maturity" or "face" value. *See* 64 AM. JUR.2D, *Public Securities and Obligations* § 11 (1972). The prices of U.S. savings bonds, which are issued in "series" that have a wide range of terms and conditions, are determined by the Treasury Secretary. *See generally* 31 C.F.R. sub. B, ch. II, subch. B. For example, the price of a Series EE savings bond, a series available in small denominations and therefore commonly given as gifts or awards, is one-half of its face value. 31 C.F.R. § 351.2(b). Thus a Series EE savings bond costing \$50 will have a maturity value of \$100. *Id.*

Bonds earn interest over time until maturity, but most do not begin to earn interest until several months after they are purchased. Some bonds allow interest to be paid to the bondholder at periodic intervals. Others, such as the Series EE bonds, earn interest that becomes part of the maturity value and is paid only when the bond is redeemed, or "cashed in." *Id.* § 351.2. The value of such a bond at any point in time is the price paid for it plus any interest it has earned thus far. *Id.*

Prior to the most current legislative session, the employee awards rider expressly limited agencies to the purchase of "lapel pins, tie clasps, plaques, loving cups, engraved certificates or other awards of a similar nature." General Appropriations Act of 1993, 73d Leg., ch. 1051, art. V, § 11, 1993 Tex. Gen. Laws 4518, 5334. In 1995 the legislature changed the rider's traditional language, continuing to authorize awards but deleting enumeration of the types of permissible awards. We presume from this change that the legislature intended to lift the long-standing limitation on agencies' discretion to choose the form of the awards. Accordingly, we find no legal prohibition in the appropriations act or elsewhere on the purchase of savings bonds for employee service awards.

In response to your second question, we believe that the rider's "not to exceed fifty dollars" language allows purchase of a savings bond that has a maturity value greater than fifty dollars, provided its cost does not exceed the cap. Since the concern of the appropriations act is the expenditure of state funds, we believe the rider's limitation applies to the present cost of the award,

not to its future value. In any event, at the moment a savings bond is purchased, it can be presumed that its cost equals its value, since no interest has accrued and normally will not accrue for several months. If the cost of the bond does not exceed fifty dollars it is a permissible award under the rider even if its future value is more.

Although you do not inquire about awards to volunteers of your agency, we note that the 1995 General Appropriations Act rider also authorizes awards to volunteers, stating:

For awards to volunteers, a state agency may expend funds appropriated by this Act to purchase engraved certificates, plaques, pins, and other awards of a similar nature that do not exceed \$50 in value per volunteer. The awards may be purchased only to recognize volunteers' special achievement and outstanding service and only if the agency has established a volunteer program that complies with Chapter 2109, Government Code², or with other applicable general law.

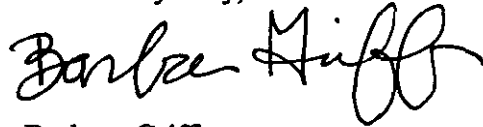
General Appropriations Act of 1995, 74th Leg., R.S., ch. 1063, art. IX, § 11, 1995 Tex. Gen. Laws 5242, 6071 (footnote added). The portion of the rider regarding volunteers is unlike the employee awards provision in that it both limits the type of permissible awards and expressly applies the fifty dollar cap to value per volunteer. The rider's language tracks a provision added in 1991 to Government Code section 2109.004, which sets out requirements and guidelines for governmental entity volunteer programs and allows the entities to "purchase engraved certificates, plaques, pins, or awards of a similar nature, with a value that does not exceed \$75 for each volunteer." Authorization in the appropriations bill for volunteer awards was added in 1993, and in 1995 the legislature revised the employee awards rider to delete enumeration of award types. Apparently, the legislature did not intend to alter the existing limits on volunteer awards.

²Government Code chapter 2109 allows state agencies to develop volunteer programs, and sets out the program requirements and guidelines.

S U M M A R Y

Savings bonds not exceeding a purchase price of fifty dollars are permissible employee service awards under the 1995 General Appropriations Act, article IX, section 11.

Yours very truly,

A handwritten signature in black ink, appearing to read "Barbara Griffin". The signature is fluid and cursive, with a large, stylized "B" and "G".

Barbara Griffin
Assistant Attorney General
Opinion Committee